

REMARKS

Status of the claims

Claims 1, 2, 6, 9, 12, 18-21, 24, 29, 34-35 and 38 are pending in the application with claims 1, 2, 9 and 37 being amended herein and claim 3-5, 7-8, 10-11, 13-17, 22-23, 25-28, 30-33 and 36 being cancelled.

Rejections for lack of enablement (112 1st paragraph)

Claims 1, 2, 5, 6, 9, 11, 12, 18-21, 24, 29, 31, 33-35 and 37 remain rejected under 35 U.S.C. §112, 1st paragraph for lack of enablement. On pages 3-5 of the Office Action, the Examiner notes the following points in regard to the rejection.

1) The Examiner acknowledges that the invention is enabled for some variants. The Examiner indicates that claims limited to genes encoding proteins having 95% sequence identity through conservative substitution, in which the encoded proteins bind to an antibody produced by the hybridoma FERM BP-6103, would be considered enabled. Thus, the Examiner appears to indicate that the invention is enabled for a gene encoding a protein having a) 95% identity to SEQ ID NO: 2 and b) that the antibody to which the protein binds is further defined as that produced by FERM BP-6103.

While Applicants do not necessarily accede to the Examiner's position as to the enabled scope of the invention, the claims have been nonetheless amended so as to define the invention as indicated by the Examiner to be enabled. Withdrawal of the invention is therefore respectfully submitted.

New claim 36 has been separately rejected. The Examiner notes that the amendments and arguments regarding claim 21 overcame the rejections of claim 21, but that the same rejection now applies to claim 36. Claim 36 has been cancelled, thus rendering the rejection moot.

Rejections under 35 U.S.C. §101 double patenting

Claims 1, 2 and 9 have been rejected under 35 U.S.C. §101 for statutory double patenting

for being directed to the same subject matter of claims 1, 2 and 9 of the '710 application. Claims 1, 2 and 9 of the '710 application have been amended so as to be of differing scope. As such, withdrawal of the double patenting rejection is respectfully requested.

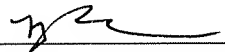
In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact MaryAnne Armstrong, Ph.D., Reg. No. 40,069 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By 
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